

JUSTICE FIRST, LLP
Jenny C. Huang, SBN 223596
Nadia Aziz, SBN 252966
2831 Telegraph Avenue
Oakland, CA 94609
Telephone: (510) 628-0695
Fax: (510) 272-0711
E-mail: jhuang@justicefirstllp.com
naziz@justicefirstllp.com

JIVAKA CANDAPPA, SBN 225919
46 Shattuck Square, Suite 15
Berkeley, CA 94704
Telephone: (510) 981-1808
Fax: (510) 981-1817
E-mail: jcandappa@sbcglobal.net

Attorneys for Plaintiff Abhinav Bhatnagar

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

Plaintiff submits this Joint Case Management Statement pursuant to Civil Local Rule 16-9 (d) and the Clerk's Notice dated 6/5/08. Signatures for defense counsel are not included because they did not authorize the final revisions. However, the parties exchanged several drafts of this statement and defense counsel approved near-final drafts. In the interest of meeting the court's deadline, Plaintiff's counsel submits this statement in good faith and upon the belief that it fairly represents the position of all parties.

1. Settlement Efforts To Date:

2 On August 24, 2007, Judge Breyer referred this case to mediation. The mediation in this
3 case was not scheduled until January 11, 2008. Prior to the mediation conference, the parties
4 agreed to conduct limited discovery for the purpose of assessing the merits of an early
5 settlement. The parties appeared before Mediator Wendy Rouder on January 11, 2008 and were
6 unsuccessful in their efforts to settle this case.

7 At the conclusion of the hearing on Plaintiff's Motion *In Limine* on May 2, 2008, Judge
8 Breyer ordered the parties attend a settlement conference with Magistrate Judge James.
9 The parties appeared for a settlement conference before Magistrate James on June 3, 2008 and
10 again on July 15, 2008. The parties' efforts to settle this matter were unsuccessful.

2. Discovery Conducted To Date:

3 Prior to the mediation conference before Mediator Wendy Rouder, the parties agreed to
4 conduct limited discovery for the purpose of assessing the merits of an early settlement. During
5 that time, Defendants conducted the depositions of Mr. Bhatnagar and two witnesses. Mr.
6 Bhatnagar and Defendant Ingrassia both served one set of discovery requests. Mr. Bhatnagar did
7 not conduct any depositions during this time.

8 During this limited period of discovery, a dispute arose about Defendant Ingrassia's right
9 to attend the deposition of Richard Ha, a gas station attendant who was working at the gas station
10 where Mr. Bhatnagar was arrested. Plaintiff's counsel agreed to represent Mr. Ha for the limited
11 purpose of bringing a motion for protective order to exclude Defendant Ingrassia from Mr. Ha's
12 deposition. On November 21, 2007, Plaintiff brought a motion for protective order, seeking to
13 exclude Defendant Ingrassia from Mr. Ha's deposition. By order dated December 28, 2007,
14 Judge Breyer prohibited Defendant Ingrassia from personally attending Mr. Ha's deposition, but
15 permitted the officer to observe the deposition by video conferencing. (See, Order dated
16 12/28/07 (Docket No. 45).)

17 Defendants served a subpoena on Ms. Huang for Mr. Ha's rescheduled deposition in June
18 of 2008, apparently believing that Ms. Huang would continue to represent Mr. Ha once
19 Defendant Ingrassia was excluded from Mr. Ha's deposition. Ms. Huang stated that she did not

1 have Mr. Ha's authority to accept service on his behalf. Nevertheless, Mr. Ha's deposition had
2 to be rescheduled because Mr. Ha was on vacation on the date of the noticed deposition. To
3 date, Defendant Ingrassia has not taken the deposition of Mr. Ha.

4 After mediation failed on January 11, 2008, the parties reported back to Judge Breyer on
5 February 15, 2008. At the request of Assistant County Counsel Gregory Harvey, Judge Breyer
6 ordered the parties to brief an *in limine* motion seeking to admit the prior judicial and
7 administrative findings underlying this case. In the meantime, the court prohibited the parties
8 from conducting any further discovery in this case. (See, Court Minutes dated 2/15/08 (Docket
9 No. 48).) The hearing on Plaintiff's Motion *In Limine* was heard on May 2, 2008. By order
10 dated May 5, 2008, Judge Breyer ruled that all prior findings were admissible at trial, although
11 they would not be entitled to collateral estoppel effect. (See, Order dated 5/5/08 (Docket No.
12 80).) At the close of the hearing, Judge Breyer ordered, the parties to attend a settlement
13 conference before Magistrate Judge James. Judge Breyer further ordered that the parties could
14 resume discovery.

15 In May of 2008, Mr. Bhatnagar served a First Set of discovery requests on Defendant
16 Ingrassia, and a Second Set of discovery requests on the municipal defendants. At the request of
17 Defendants, Plaintiff Abhinav Bhatnagar agreed to extend deadlines on pending discovery
18 requests while the parties were engaged in settlement negotiations. Upon the agreement of all
19 parties, Judge Breyer approved a cutoff date for fact discovery for September 30, 2008 while the
20 parties were engaged in settlement negotiations. (See, Order of Magistrate James, dated 6/4/08
21 (Docket No. 83.)

22 On July 1, 2008, Defendant Ingrassia produced responses to Mr. Bhatnagar's 1st Set of
23 discovery requests. The parties have since been meeting and conferring about those discovery
24 responses. Defendant Ingrassia's position is there are significant privacy related issues
25 pertaining to Plaintiff's request for the personnel file of Ingrassia and other personal and private
26 information from Ingrassia, for example, all of Ingrassia's personal telephone numbers over the
27 last few years. Defendants feel strongly that some of the private information demanded by
28 Plaintiff cannot be adequately protected via a joint stipulated protective order. Mr. Bhatnagar is

1 preparing to file an expedited motion to seek the court's intervention on various matters that the
2 parties were unable to resolve. Counsel for Defendant Ingrassia has stated that he is unable to
3 agree to an expedited motion.

4 To date, Defendants have conducted six depositions including Mr. Bhatnagar, Laurie
5 Garrison, Marcus Campagna, Jonathan Young (phlebotomist), Diana Garrido (Contra Costa
6 County Public Defender), and Tim Ahearn (Contra Costa County Public Defender). Defendants
7 have also served Mr. Bhatnagar's mother with a deposition notice and upon information and
8 belief, have been attempting to serve Mr. Bhatnagar's father with a deposition notice. Plaintiff's
9 counsel has since agreed to accept service of any deposition subpoena for Mr. Bhatnagar's
10 father. Mr. Bhatnagar has noticed the deposition of San Ramon Police Officer Nathan Jones and
11 is conferring with opposing counsel for the depositions of two internal affairs investigators.

12 3. Case Management Schedule:

13 During the last court conference on May 2, 2008, Judge Breyer set this case for trial on
14 December 8, 2008 and scheduled a pretrial conference for December 2, 2008. (*See*, Minute
15 Order dated 5/2/08 (Docket No. 78); Pretrial Conference Order dated 5/2/08 (Docket No. 79).)
16 Pursuant to the court's order, the parties have attempted to agree upon the remaining case
17 management dates. The parties disagree, however, on the deadlines for expert disclosures and
18 discovery. Mr. Harvey requests additional time for expert discovery and seeks to have expert
19 disclosures after the close of fact discovery so that the experts have the benefit of the completion
20 of discovery prior to preparing their Rule 26 reports. According to the schedule proposed by Mr.
21 Harvey, dispositive motions will be filed shortly after expert disclosure and briefing on
22 dispositive motions will occur before the close of expert discovery.

23 Plaintiff's counsel is prepared to complete expert disclosures at an earlier date, by
24 September 12, 2008, and expert discovery by October 10, 2008, in the interest of avoiding
25 further delay of the trial date. However, in light of Mr. Harvey's position, Plaintiff's counsel is
26 willing to agree to Mr. Harvey's request to close expert discovery after fact discovery, on the
27 condition that it is concluded prior to the filing of dispositive motions. This will enable the
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1 parties to use evidence obtained during expert discovery to support their positions on dispositive
2 motions.

3 In order to accommodate the interests of all parties (Mr. Harvey's request to conclude
4 expert discovery after fact discovery and Ms. Huang's request to conclude expert discovery
5 before the filing of dispositive motions), Plaintiff and the municipal defendants seek a brief
6 postponement of the trial until February 2, 2009.

7 4. Stipulated Protective Order

8 All parties have agreed to and signed the attached Stipulated Protective Order that
9 mirrors the model protective order proposed by the Northern District of California. The
10 Stipulated Protective Order is attached hereto as an attachment for the court's signature.

11 Dated: July 18, 2008
12 Oakland, California

JUSTICE FIRST, LLP

13 Attorneys for Plaintiff Abhinav Bhatnagar
14 By:
15 _____/s/ Jenny Huang_____

Jenny C. Huang
2831 Telegraph Avenue
Oakland, CA 94609

16 Dated: July 18, 2008
17 Martinez, California

GREGORY HARVEY

18 Attorney for Contra Costa County and
the City of San Ramon
19 By:
20 _____

Mr. Gregory Harvey
Contra Costa County Counsel's Office
651 Pine Street, 9th Floor
Martinez, CA 94553

22 Dated: July 18, 2008
23 Walnut Creek, California

JAMES FITZGERALD

24 Attorney for Defendant Jason Ingrassia
25 By:
26 _____

Mr. James Fitzgerald
McNamara Dodge et al. LLP
P. O. Box 5288
Walnut Creek, CA 94596-1288